



Land and Development Practice
CHARTERED TOWN PLANNERS & SURVEYORS

TOWN & COUNTRY PLANNING ACT 1990

SECTION 174 APPEAL

APPEAL BY THE MORLEY HOUSE TRUST AGAINST THE NON DETERMINATION OF 8/04214/OT FOR OUTLINE PLANNING PERMISSION FOR 53 TOWNHOUSES AND 15 APARTMENTS.

PLANNING INSPECTORATE REFERENCES:

APP/N/4710/A/10/2140564/NWF

APP/N/4720/A/10/2140587/NWF

APP/N/4720/A/10/2140578/NWF

APP/N/4720/A/10/2140575/NWF

APP/N/4720/A/10/2140572/NWF

APPELLANT REFERENCE: 8415A

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1. INTRODUCTION

1.1 This Statement of Case is produced on behalf of the Morley House Trust (MHT) in respect of five appeals lodged against the Council's failure to determine five planning applications at Leeds Girls High School (LGHS). These applications comprised the following:

08/04214/OT – Outline planning permission for 53 townhouses (including two in the lodge to the north west of the site) and 15 apartments;

08/04216/FU – The conversion of the senior school building to 32 apartments and four townhouses and the stable block to four town houses;

08/04217/CA – Conservation Area Consent for demolition of part of the senior school building and other buildings on the site;

08/04219/FU – The conversion of Rose Court to 12 apartments;

08/04220/LI – Listed building consent for the works carried out to Rose Court;

08/04218/OT - Residential development of the VR site;

2. THE SITE AND ITS SURROUNDINGS

- 2.1 A full description of the site and its surroundings will be set out in the proof of evidence to the inquiry
- 2.2 In summary, the appeal site is located within the urban area of Headingley, a suburb of Leeds in the administrative boundary of Leeds City Council. The site is a triangular shaped piece of land located between Headingley lane and Victoria Road, which converge to the east of the site. The site measures 2.44 hectares, and comprises a series of school buildings, including the Listed Rose Court and six disused tennis courts, previously utilised as car parking.
- 2.3 It is anticipated that the description of the site and surroundings will be agreed and set out in the Statement of Common Ground.

3. THE PROPOSED DEVELOPMENT

Outline planning permission for 53 townhouses (including two in the lodge to the north west of the site) and 15 apartments;

- 3.1 The largest application on the site is for outline planning permission for 53 townhouses and 15 apartments, including the approval of access, layout and scale. The design of this scheme had a number of minor alterations throughout the application process, however the final amended plan can be seen in Drawing reference 2006-239/050/R. This plan shows that the design of the scheme had three separate and distinct elements.
- 3.2 The three elements include three blocks of townhouses opposite Rose Court fronting onto a large area of open space, a series of townhouses developed around the retained senior school building in the north western quadrant of the site and a series of townhouses to the south west of the site overlooking a landscaped amenity area with a four/five storey block of apartments in the south western corner.
- 3.3 The two landscaped areas of POS provide a link throughout the centre of the site providing onsite amenity areas for both the future residents and existing residents in the surrounding area.
- 3.4 Access to the site is taken from two separate points on Victoria Road and allows for the closure of the existing Headingley Lane access to members of the public (but remains for emergency vehicular access). The main access into the site is taken centrally from the south and provides access to the new build development to the south east and north of the site, the conversion of the senior school building and provides parking for Rose Court. The access in the south western corner of the site provides access to all properties along the western edge of the site, including the new build development in the south west corner comprising townhouses and an apartment block, the new build development in the north west of the site and the conversion of the lodge in the north west corner and the stable block to the rear of the senior school building.

3.5 The new build town houses are predominantly 2/3 storeys in height, whilst the townhouses adjacent to the senior school are to be 3/4 storeys high to reflect the demolished part of the property and the apartment block in the south west corner is 4/5 storeys high with undercroft car parking.

The conversion of the senior school building to 32 apartments and four townhouses and the stable block to four town houses;

3.6 The application retains a large part of the senior school building to be converted into 32 apartments with the stable block to the rear being converted into four townhouses.

3.7 The application retains the original part of the building, which was considered to be a building that made a positive contribution to the Conservation Area. Access is from the centrally located access road with parking located to the rear and via undercroft parking facilities.

Conservation Area Consent for demolition of part of the senior school building and other buildings on the site;

3.8 This application proposed the demolition of a large proportion of the school buildings located to the northern part of the site, including a modern extension to the senior school building and the library building. The extent of demolition was agreed through consultation with the Council's Conservation Officer to determine which buildings make a positive contribution to the Conservation Area. It has always been acknowledged that the library building and 1930s extension do not make a positive contribution to the Conservation Area and subsequently they were considered acceptable for demolition.

The conversion of Rose Court to 12 apartments;

3.9 The original submissions for Rose Court were for the conversion of the existing property to eight apartments with a new modern extension to the western elevation providing a further four townhouses.

3.10 As a result of comments received from the Council's conservation officer, English Heritage and the Victorian Society the proposed extension was

removed from the scheme. The four townhouses were removed from the scheme and replaced with apartments, therefore the number of properties remains at eight.

Listed building consent for the works carried out to Rose Court;

- 3.11 A parallel application was submitted for listed building consent for the works to Rose Court.

4. PLANNING POLICY FRAMEWORK

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the statutory development plan consists of the Regional Spatial Strategy (May 2008) and Leeds City Council Unitary Development Plan (2006). The Courts have also held that the Government's statements on planning policy are material considerations which must be taken into account, (where relevant), in decisions on planning applications.

4.2 Leeds UDP Policies

SA1: Securing the highest environmental quality

SP3: New development should be concentrated within or adjoining the main urban areas and should be well served by public transport

GP5: General planning considerations

GP7: Guides the use of planning obligations

GP9: Promotes community involvement during the pre application stages

BD5: Consideration to be given to amenity in design of new buildings

H1: Provision for completion of the annual average housing requirement identified in the Regional Spatial Strategy

H3: Delivery of housing land release

H4: Residential development on non-allocated sites

H11, H12 and H13: Affordable Housing

H15: Area of Housing Mix

LD1: Criteria for landscape design

N2 and N4: Provision of green space in relation to new residential developments

N3: Priority given to improving green space within the priority residential areas identified

N6: Protected Playing Pitches

- N12: Development proposals to respect fundamental priorities for urban design
- N13: Building design to be of high quality and have regard to the character and appearance of their surroundings
- N14 to N22: Listed Buildings and Conservation Areas
- N19: Conservation Area assessment
- N23: Incidental open space around new built development
- N38B and N39A: Set out the requirement for a Flood Risk Assessment
- T2: Seeks to ensure that developments will not create or materially add to problems of safety, environment or efficiency on the highway network
- T24: Requires parking provision to reflect detailed guidelines

4.3 National Planning Guidance

- PPS1: Delivering Sustainable Development
- PPS3: Housing
- PPG13: Transport
- PPS5: Planning for the Historic Environment
- PPG17: Planning for Open Space, Sport and Recreation
- PPS25: Development and Flood Risk

4.4 Supplementary Planning Guidance

- 4.5 Neighbourhoods for Living
- 4.6 Affordable Housing Policy
- 4.7 Greenspace relating to new housing
- 4.8 Draft Headingley Neighbourhood Design Statement

5. PLANNING HISTORY

- 5.1 The site was operated as Leeds Girls High School up until 2008, whereby a merger with Leeds Grammar School resulted in the creation of the Grammar School at Leeds at a site in Alwoodley.
- 5.2 As a result of the merger the LGHS site remained vacant. Consequently a draft Planning and Development Brief was prepared on behalf of MHT in consultation with Leeds City Council (LCC). The basis of the brief was to guide future development of the LGHS site, land owned by the School at Victoria Road (VR) and Ford House Gardens (FHG). Following public consultation the draft Development Brief was presented to members of the Executive Board on 22 August 2007, where it was resolved to withdraw the brief and progress the sites through the planning system.
- 5.3 Prior to the submission of planning applications to develop the site an application was made to spot list the Senior School Building, an application which was refused by English Heritage on 04 July 2008.
- 5.4 Six separate applications were submitted to LCC and validated on 11 July 2008 which together provided for the comprehensive redevelopment of both the LGHS site and VR. The development was submitted as a number of separate planning applications due to the overall development including new build properties, the conversion of two separate buildings, works to a listed building and the demolition of a number of properties on the site located within a Conservation Area.
- 5.5 The five applications submitted on the LGHS site comprise the following:

08/04214/OT – Outline planning permission for 53 townhouses (including two in the lodge to the north west of the site) and 15 apartments;

08/04216/FU – The conversion of the senior school building to 32 apartments and four townhouses and the stable block to four town houses;

08/04217/CA – Conservation Area Consent for demolition of part of the senior school building and other buildings on the site;

08/04219/FU – The conversion of Rose Court to 12 apartments;

08/04220/LI – Listed building consent for the works carried out to Rose Court;

08/04218/OT - Residential development of the VR site;

5.6 Once submitted the applications were subjected to a lengthy determination process as follows:

5.6.1 On 01 October 2009 a position statement was taken to Plans Panel to update members on the applications, provide information regarding the different applications and provide an opportunity for comments to be made. Following this meeting the Council provided a list of supplementary information that was required to progress the planning applications.

5.6.2 On 23 October 2009 a submission was made of all of the necessary amended drawings and additional information requested at the Plans Panel.

5.6.3 Further to discussions with the Council a set of all relevant and up-to-date planning application documents and drawings including amendments were sent on 02 July 2010 to provide all of the information necessary to determine the applications.

5.6.4 The applications were taken to panel on 12 August 2010 recommended for approval subject to conditions and a s106 agreement. Councillors debated the applications and agreed that some of the schemes had merit, however some elements of the schemes caused concerns.

5.6.5 As some of the schemes were considered acceptable, it was asked if decisions could be made on some of the applications and not others. Councillors were advised by officers that the applications had to be determined together and therefore any concerns they had should be raised so that further information could be obtained to be brought back to a later meeting for a decision.

5.6.6 Following the August Panel further documentation and a supporting letter were sent to the LPA to provide justification for the specific elements that the August Panel had raised concerns over.

5.6.7 On 5 October 2010 a legal challenge was launched by Bill McKinnon, a local objector who chairs the Friends of Woodhouse Moor group. The challenge formed a Judicial Review against the Council's decision to recommend approval of the applications and also an injunction to prevent members determining the applications until the JR had been heard. Prior to the meeting the injunction was dismissed, whilst no decision was made on the JR. As a result of this challenge Phil Crabtree, the Chief Planning Officer recommended that members defer the meeting in order to enable the issues raised to be assessed by Counsel.

5.6.8 A revised report was drafted to overcome the issues raised and presented to members at a Plans Panel meeting on 04 November 2010. At the November Plans Panel meeting, the Panel voted to refuse the applications but for officers to decide the reasons for refusal and bring the application back to the next panel meeting.

5.6.9 At this juncture appeals against the non-determination of the applications were lodged.

5.6.10 Following the resolution of members to refuse planning permission of all of the applications except Rose Court at the November Panel, a report was prepared to be presented to Plans Panel on 02 December 2010. Due to inclement weather the Plans Panel meeting was postponed and therefore a decision on the report was not made. The meeting was subsequently reconvened on Tuesday 14 December with the same recommendations.

5.7 The reason recommended for refusal by the officers for the outline application 08/04214/OT was as follows:

'The proposed development, due to its scale, layout, density and impact on the character of the site including its open areas, would be harmful to the setting of the listed buildings and the character and appearance of the Headingley Conservation Area. In addition, the submitted plans fail to adequately demonstrate that the development, and in particular the 4/5 storey flats block to the south-west corner of the site and the potential for impact on trees in the vicinity of that block, would preserve or enhance the character of the Conservation Area. The proposal would therefore be contrary to policies N12, N13, N19 and LD1 of the Unitary Development Plan Review 2006, the Headingley and Hyde Park Neighbourhood Design Statement and to national planning guidance set out in PPS1, PPS3 and PPS5'

5.8 A suggested reason for refusal was given for the change of use and extension including part demolition of school building and stable block to 32 flats and 4 terrace houses in Stable Block 08/04216/FU as:-

'The proposed demolition of that part of the main school building to the east of the retained section of building would result in the loss of part of a building which makes a positive contribution to the character and appearance of the Headingley Conservation Area and consequent harm to the character of the Conservation Area. In addition, there is no acceptable scheme for the redevelopment of the site and the submitted plans fail to adequately demonstrate that the proposed replacement development would justify the extent of demolition and would therefore adversely affect the character and appearance of the Conservation Area. The proposal would therefore be contrary to policies N12, N13, N19 of the Unitary Development Plan Review 2006, the Headingley and Hyde Park Neighbourhood Design Statement and to national planning guidance set out in PPS1, PPS3 and PPS5.'

5.9 Finally, a suggested reason for refusal was given for Conservation Area Consent for the demolition of rear and side extensions to main school building 08/04217/CA as:-

'The proposed demolition would result in the unacceptable loss of parts of the building which contribute positively to the character of the Headingley Conservation Area. In addition, there is no approved scheme for redevelopment of the site against which to assess the proposed demolition. The proposed demolition would therefore be contrary to policies N18a and N18b of the Unitary Development Plan Review 2006, the Headingley and Hyde Park Neighbourhood Design Statement and to national planning guidance set out in PPS5.'

5.10 Both the listed building consent and planning permission for the works to Rose Court were recommended for approval.

5.11 Councillors agreed to the recommendation and added the following additional reason for refusal:

'The proposed development results in the loss of open playing pitches which make a positive visual contribution to the character of the Conservation Area contrary to the guidance in PPG17.'

5.12 Furthermore a condition for an alternative access for the Rose Court development was to be added.

6. THE APPELLANTS CASE

6.1 Outline Application (APP/N4710/A/10/2140564)

PRINCIPLE OF DEVELOPMENT

6.1.1 Evidence will be provided to demonstrate that the principle of developing the site is acceptable and the reuse of the land and buildings is promoted by the Council. The site is located within a sustainable location, centrally located within Leeds and adjacent to Headingley town centre and its associated services.

HIGHWAYS SAFETY

6.1.2 Evidence will be provided that the access provisions into the site are entirely acceptable and consistent with highways design guidance and principles. It will be demonstrated that the development will have no detrimental impact upon residents of the development or users of the existing highway network.

TREES/LANDSCAPE

6.1.3 Evidence will be provided to show that the existing trees on the site will be effectively integrated into the proposed development with no conflicts arising with the properties to be developed, either by directly impacting on the root structure or by the ariel relationships between the trees and properties.

6.1.4 Evidence will also be provided to demonstrate the minimal loss of trees and the neutral impact this will have on the Conservation Area.

PROTECTED PLAYING FIELDS

6.1.5 Evidence will be provided that the playing pitches to be developed at LGHS have been replaced in their quantity and quality by pitches at The Grammar School at Leeds. The playing pitches at LGHS were never publically available and were only utilised by school children, as these children have

been relocated to The Grammar School at Leeds the pitches are available to the same users in accordance with PPG17 and Policy N6 of the Leeds UDP. The playing pitches and courts at The Grammar School at Leeds have also been made publically available therefore their use is available to a wider number of users and secured for continued public use by way of a Section 106 Agreement.

6.1.6 Policy N6, in part, reiterates guidance within PPG17 and requires a demonstrable net gain to overall pitch quality and provision where development of playing pitches is proposed. Evidence will be given to demonstrate that there is no loss of pitch quantity and quality and that there is sufficient open space provision within the area that alternative uses are not required.

DENSITY

6.1.7 Evidence will be provided that the density of the development is not detrimental to the character or appearance of the area. The evidence will demonstrate that the development comprises a mixture of converted buildings at high density, which require no physical development and new dwellings at a low density, which when viewed in the context of the conservation area and wider views will not have a detrimental impact.

HEALTH ISSUES

6.1.8 Evidence will be provided to demonstrate that the playing fields have never been publicly available for use and the local community have not previously utilised the facilities. Consequently it will be demonstrated that the development of the site will have no direct impact upon the health of residents of the local community. Furthermore evidence will be provided to demonstrate that there will be no conflict with the provisions of the Equalities Act or the Race Relations Act 1976 as revised by the Inner Leeds Health Monitor.

IMPACT UPON LISTED BUILDINGS AND THE CONSERVATION AREA

6.1.9 Evidence will be provided to demonstrate that the scale, layout and density of the new townhouses and south west apartment block do not adversely impact on the open character of the site or the setting of the listed building or wider conservation area. Specific evidence will be provided in relation to the south west apartment block to demonstrate that its design will not have an adverse impact upon the conservation area in general or upon the senior school building and Rose Court located within the site. Evidence will also be provided to demonstrate that this part of the development will not impact upon the trees in the immediate vicinity, which in turn would impact upon the conservation area.

6.2 **Senior School Building (APP/N4720/A/10/2140572)**

6.2.1 Evidence will be provided to demonstrate that no objections have been raised to the conversion of the Senior School Building with regard the appearance of the Senior School Building or proposed rear extension, associated landscaping, residential amenity or access and parking. It will be demonstrated that the demolition of the later extension and library building to the east of the Senior School Building do not form part of this application and are not required to facilitate the conversion. Consequently it will be demonstrated that the concerns relating to demolition raised by LCC are not relevant to this planning application and are incapable of constituting reasons for refusal.

6.3 **Conservation Area Consent (APP/N4720/A/10/2140575)**

6.3.1 Evidence will be provided that the buildings and/or parts of buildings that are to be demolished do not make a positive contribution to the Conservation Area and that there is a satisfactory replacement development scheme in place.

6.3.2 Should it be considered that parts of the building do make a positive contribution material considerations will be demonstrated to outweigh any perceived non-compliance with the development plan.

6.4 Rose Court Planning Permission (APP/N4720/A/10/2140578)

PRINCIPLE OF DEVELOPMENT

6.4.1 Evidence will be provided to demonstrate that the principle of developing the site is acceptable and the reuse of the land and buildings is promoted by LCC. The site is located within a sustainable location, centrally located within Leeds and adjacent to Headingley town centre and its associated services.

HIGHWAYS SAFETY

6.4.2 Evidence will be provided that the access provisions into the site are entirely acceptable and consistent with highways design guidance and principles. It will be demonstrated that the development will have no detrimental impact upon residents of the development or users of the existing highway network.

6.4.3 In debating the Rose Court applications LCC proposed chose to relocate the access road to the south east corner of the site by utilising a planning condition. It will be demonstrated that this condition does not meet the tests of Circular 11/95 and that the proposed access arrangements are acceptable.

TREES/LANDSCAPE

6.4.4 Evidence will be provided to show that the existing trees on the site will be effectively integrated into the proposed development with no conflicts arising with the properties to be developed.

LISTED BUILDING/CONSERVATION AREA IMPACT

6.4.5 Evidence will be provided to demonstrate that contrary to the views of Rule 6(6) parties the internal alterations will not impact upon the fabric of the listed building, the sub-division of the curtilage will not harm its setting and the conversion to eight flats does not constitute overdevelopment.

6.5 Rose Court Listed Building Consent (APP/N4720/A/10/2140587)

6.5.1 Evidence will be provided to demonstrate that contrary to the views of Rule 6(6) parties the internal alterations will not impact upon the fabric of the listed building, the sub-division of the curtilage will not harm its setting and the conversion to eight flats does not constitute overdevelopment.

6.6 Issues raised by Rule 6 (6) Parties

6.6.1 Evidence will be provided to cover any further issues raised in the Rule 6 (6) party statements of case.

7. CONDITIONS AND COMMON GROUND

7.1 The Appellant will seek to reach agreement with the LPA and other parties in advance of the inquiry on the detailed conditions which would be applied to any planning permission and the contents of a s106 agreement.

7.2 It is intended that the Statement of Common Ground will be agreed with the LPA and other parties, to include the following matters:

- Site description
- Planning history
- The proposed development
- Relevant planning policies
- Agreed compliance with planning policy

8. CONCLUSIONS

8.1 The Appellant will draw together all the issues that are material to the application and will demonstrate that there is a robust case for the approval of the proposed development when tested against national and local policy and advice and that there are no material considerations to outweigh compliance with the development plan.

9. LIST OF DOCUMENTS

9.1 The following list of documents provides a guide to the likely references that will be used at the inquiry. The appellant however would wish to reserve the right to refer to other documents if required.

A. LEGISLATION

Town and Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004
Town and Country Planning (Inquiries Procedure) (England) Rules 2000

B. NATIONAL PLANNING POLICY

PPS1: Delivering Sustainable Development
PPS3: Housing
PPG13: Transport
PPS5: Planning for the Historic Environment
PPG17: Planning for Open Space, Sport and Recreation
PPS25: Development and Flood Risk

C. CIRCULARS

Circular 11/95: Use of Conditions in Planning Permission

D. REGIONAL PLANNING GUIDANCE

Regional Spatial Strategy: The Yorkshire and Humber Plan (May 2008)

E. LOCAL PLANNING POLICY

Leeds Unitary Development Plan

F. DECISIONS, NOTICES AND DOCUMENTS ISSUED BY LEEDS CITY COUNCIL

Planning Applications

Planning Committee Reports and related correspondence

G. INFORMATION SUBMITTED AS PART OF THE PLANNING APPLICATION